



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Sentrix Pharmacy and Discount, L.L.C.

Respondent Name

Mid-Century Insurance Company

MFDR Tracking Number

M4-17-2059-01

Carrier's Austin Representative

Box Number 14

MFDR Date Received

March 6, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The insurance carrier, Farmers Insurance, failed to take final action on the claim within the 45-day period set forth in TAC §133.240. Specifically the claim was submitted on 12/2/16 and it was received by the provider on 12/7/16 ... and no action was taken on the claim. After 30 days, the Pharmacy had submitted a second request for payment (on 2/7/17) based upon expiration of the 45-day period and it was received by the provider on 2/13/17 ... Again, no action was taken on the claim."

Amount in Dispute: \$11,026.92

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "This compound scar cream was determined not to be medically necessary by the carrier's utilization review agent following a retrospective utilization review."

Response Submitted by: Stone Loughlin & Swanson, L.L.P.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 1, 2106	Pharmacy Services – Compound	\$11,026.92	\$10,925.49

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.305 sets out the procedures for resolving medical disputes.
3. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
4. 28 Texas Administrative Code §133.240 sets out the procedures for payment or denial of a medical bill.
5. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical services.

6. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
7. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - Comments: “These services have been retrospectively reviewed. Services that do not require preauthorization are subject to review for medical necessity in accordance with §133.230 of this title.”
 - 50 – Service not Deemed ‘Medically Necessary’ by payer

Issues

1. Did Mid-Century Insurance Company (Mid-Century) raise a new issue in accordance with 28 Texas Administrative Code §133.307?
2. Is Mid-Century’s reason for denial of payment for the compound in question supported?
3. Is Sentrix Pharmacy and Discount, L.L.C. (Sentrix) eligible for reimbursement of the disputed compound?

Findings

1. In its position statement, Stone Loughlin & Swanson, L.L.P. argued on behalf of Mid-Century, “Compound creams require preauthorization under Division rules 134.530 and 134.540 because they are considered investigational or experimental.”

28 Texas Administrative Code §133.307(d)(2)(F) states, in relevant part, “The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review.”

Review of the submitted documentation does not find that Mid-Century presented preauthorization in accordance with 28 Texas Administrative Code §133.240 as a reason for denial of payment to Sentrix prior to the date the request for medical fee dispute resolution (MFDR) was filed. The division concludes that this defense presented in Stone Loughlin & Swanson, L.L.P.’s position statement shall not be considered for review because this assertion constitutes a new defense pursuant to 28 Texas Administrative Code §133.307(d)(2)(F).

2. Sentrix is seeking reimbursement of \$11,026.92 for a compound dispensed on December 1, 2016, consisting of the following ingredients:

Ingredients	NDC	Amount
Sanare Gel	00395701159	214.8 gm
Propylene Glycol	00395232728	14.4 ml
Pentoxifylline 0.5%	38779256008	1.2 gm
Tranilast 1%	52372077002	2.4 gm
Fluticasone Propionate 1%	00395805419	2.4 gm
Levocetirizine Dihydrochloride 2%	53272069903	4.8 gm

Mid-Century denied the disputed compound with claim adjustment reason code 50 – “Service not Deemed ‘Medically Necessary’ by payer.” In its position statement, AIG argued, “This compound scar cream was determined not to be medically necessary by the carrier’s utilization review agent following a retrospective utilization review.”

28 Texas Administrative Code §133.240(q) states that the insurance carrier is required to comply with 28 Texas Administrative Codes §§19.2009 and 19.2010 when denying payment based on an adverse determination, “including the requirement that prior to issuance of an adverse determination the insurance carrier shall afford the health care provider a reasonable opportunity to discuss the billed health care with a doctor or, in cases of a dental plan or chiropractic services, with a dentist or chiropractor, respectively.”

Review of the submitted documentation finds that Stone Loughline & Swanson, L.L.P. submitted a document dated December 21, 2016 as support for a retrospective review of the disputed compound. The division concludes that the submitted documentation does not support that Mid-Century performed a retrospective utilization review of the service in question because the document does not pertain to the compound in this dispute.

Mid-Century's denial reason is therefore not sufficiently supported. The disputed services will consequently be reviewed per applicable fee guidelines.

3. 28 Texas Administrative Code §134.503 applies to the compound in dispute and states, in pertinent part:

- (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
 - (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
 - (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
 - (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider; or
 - (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502(d)(2). The division finds that NDC 53272069903 as billed for Levocetirizine Dihydrochloride 2% is not a valid code, as required by 28 Texas Administrative Code §134.502(d)(1). Therefore, this ingredient will not be considered.

Each ingredient is listed below with its corresponding reimbursement amount.

Ingredient	NDC & Type	Price/ Unit	Total Units	AWP Formula §134.503(c)(1)	Billed Amt §134.503 (c)(2)	Lesser of (c)(1) and (c)(2)
Compounding Fee	NA	NA	NA	\$15.00	\$0.00	\$0.00
Sanare Gel	00395701159 Generic	\$12.15	214.8 gm	\$3,262.28	\$2,609.82	\$2,609.82
Propylene Glycol	00395232728 Generic	\$0.20211	14.4 ml	\$3.64	\$2.92	\$2.92
Pentoxifylline 0.5%	38779256008 Generic	\$8.284	1.2 gm	\$12.43	\$9.94	\$9.94
Tranilast 1%	52372077002 Generic	\$10.15	2.4 gm	\$30.45	\$24.36	\$24.36
Fluticasone Propionate 1%	00395805419 Generic	\$3,449.3552	2.4 gm	\$10,348.07	\$8,278.45	\$8,278.45
Levocetirizine Dihydrochloride 2%	53272069903 Invalid NDC	\$0.00	4.8 gm	\$0.00	\$101.43	\$0.00
Total						\$10,925.49

The total reimbursement is therefore \$10,925.49. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$10,925.49.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$10,925.49, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____ Signature	Laurie Garnes Medical Fee Dispute Resolution Officer	December 21, 2017 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.